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August 13, 2014

By ECF

Hon. John G. Koeltl
United States District Judge
United States District Court, Southern District of New York
500 Pearl Street
New York, NY 10007

Baldassare Vinti
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Re: *Scantibodies Laboratory, Inc. v. Church & Dwight Co., Inc.* 14 Civ. 2275 (JGK)

Dear Judge Koeltl:

We represent defendant Church & Dwight Co., Inc. ("Church & Dwight") in the above-referenced action, and write in response to the letter filed by counsel for Plaintiff Scantibodies Laboratory, Inc. ("SLI") late last night. For the reasons discussed below, we believe Plaintiff's letter was premature, as the parties have not completed their meet and confer sessions. Accordingly, we respectfully request the opportunity to complete the meet and confer process this week and then file our response to Plaintiff's letter one week from today.

Indeed, we are surprised and disappointed by counsel's decision to file a letter that tells less than half the story at a time when the parties were still attempting to resolve numerous discovery issues concerning Plaintiff's refusal to produce certain documents and, more importantly, its refusal to cooperatively discuss an appropriate protective order, the use of search terms and custodians, or the format of production for ESI. We were in the midst of discussing these and other open discovery issues with Mr. Bhandari when he recently stated that he could not give us Plaintiff's final position until he consulted with his client, so we agreed to adjourn our meet and confer session until he did so. We asked him for an update on certain of those issues last Friday, but he said he hadn't yet spoken with Plaintiff. We asked him again on Monday of this week, and once more he said that he hadn't yet spoken with his client. However, he assured us that he would do so by the end of this week. Out of concern that Plaintiff might be planning to raise its issues with Your Honor at the same time it was telling us that it couldn't discuss our issues, we emailed Mr. Bhandari last evening and requested that he please confirm that he would "get back to us before raising any issue with the Court so that, if necessary, the parties can address the Court simultaneously rather than raising piecemeal issues." (See 8/12/14 Email from Baldassare Vinti to Rishi Bhandari, attached as Exhibit 1.) ***Mr. Bhandari's response was to rush out his letter to Your Honor, which was filed shortly after midnight – two hours after receiving our email.*** This hardly reflected the effort to cooperate that Your Honor admonished both sides to undertake.

Although Plaintiff appears to see some tactical advantage in rushing to Court with its own disputes while delaying any possible resolution of ours, we continue to believe it would be far more efficient for the Court to address all of the discovery issues raised by both sides at one conference. Having "succeeded" in being the first to run to Court, Plaintiff's counsel advised us



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this morning that he is now ready to complete our meet and confer. At the same time, Plaintiff's counsel finally provided an answer as to the form of SLI's electronic document production, which is information that we have been requesting for weeks. We believe that the format of ESI discovery that Plaintiff's counsel is proposing is inconsistent with what we requested, but we are at least now in a position to discuss it with him. In any case, we anticipate that the meet and confer will conclude by the end of this week. Hopefully, that will narrow the areas of disagreement. Accordingly, we request leave to file our letter responding to Plaintiff's letter by next Wednesday, August 20, 2014, at the latest, which will address all of the outstanding discovery issues raised by both sides. Of course, if the Court prefers to treat these issues separately, we will submit a letter responding to SLI's issues promptly, and will raise our own issues after the meet and confer concludes.

Respectfully submitted,

s/ Baldassare Vinti

Baldassare Vinti

cc: Rishi Bhandari, Esq.

EXHIBIT 1

Otto, Milton E.

From: Vinti, Baldassare
Sent: Tuesday, August 12, 2014 10:07 PM
To: rb@mandelbhandari.com
Cc: Goldstein, Richard M.; Leader, Jordan B.; Otto, Milton E.
Subject: Re: SLI v. C&D

Dear Rishi-

I know that you and Rich were trying to connect today but were unable to do so. Rich wanted to talk with you about when you are going to get back to us on the questions that Jordan asked you concerning the discovery that Church & Dwight requested from SLI, including whether SLI agrees to produce its documents in the form requested in Church & Dwight's doc requests. We understand that both parties may have issues to present to the court, and it is our belief that those issues should be presented simultaneously. We trust that you will get back to us before raising any issue with the Court so that, if necessary, the parties can address the court simultaneously rather than raising piecemeal issues. Please confirm.

Regards,
Baldo

On Aug 11, 2014, at 5:03 PM, "Otto, Milton E." <motto@proskauer.com> wrote:

Rishi:

Last Monday, Jordan wrote to you and asked the following question:

"[I]n our initial meet and confer, you explained to us that SLI had uploaded documents to an FTP site and intended to produce its documents in PDF form. We expressed that it would be improper if SLI took its electronic documents and scanned them into PDFs or converted them into PDFs without preserving the metadata. I asked you if this is what happened, but have never heard back from you. Thus, please let us know if SLI will be producing documents in the form and method set forth in the instructions in Church & Dwight's first document request, including producing TIFF images of its documents, along with a Concordance load filed that contains text and metadata. If you are not going to follow the instructions, please tell us how SLI proposes to produce its documents."

You responded the following day that you would check with your client. A week has now passed. Would you please confirm immediately that you will be producing SLI's documents in the form and manner set forth in Instructions 12-14 of Church & Dwight's First Set of Requests for the Production of Documents and Things?

Milton E. Otto
Associate

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